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PATENT
IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of: Carole A. Lepilleur et al.

CUSTOMER NO.: 37535

Serial No.: 10/782,363

Docket No.: 200CT015E

Filed: February 19, 2004

Group Art Unit:

Examiner:

For: TOUGHENED VINYL ESTER RESINS

**Mail Stop Missing Parts
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450**

"Express Mail" Label No.: ED015650166US

Date of Deposit: 9/13/04

I hereby certify that this correspondence (including any paper or fee referred to herein) is being deposited with the United States Postal Service "Express Mail Post Office to Addressee" Service under 37 CFR §1.10 on the date indicated above in an envelope addressed to: MAIL STOP MISSING PARTS, COMMISSIONER FOR PATENTS, P.O. BOX 1450, ALEXANDRIA, VA 22313-1450.

Printed Name of Person Mailing Correspondence: Cathy Bartel

Signature of Person Mailing Correspondence: Cathy Bartel

PETITION AND FEE FOR EXTENSION OF TIME UNDER 37 CFR 1.136(a)

Sir:

This is a petition for an extension of time for two months up to and including September 13, 2004, to respond to the Notice to File Missing Parts Of Nonprovisional Application mailed on May 13, 2004. If an additional extension of time is required, please consider this a petition therefor.

The Commissioner is authorized to deduct the requisite fee of \$420.00 or any additional fee (including fees for an additional extension) from Deposit Account No. 50-1501. A duplicate of this page is enclosed.

09/15/2004 FFANAIAR 00000018 501501 10782363
01 FC:1252 420.00 DA

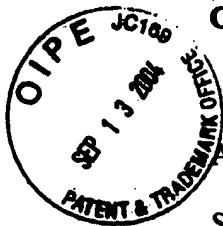
Respectfully submitted,

Thoburn T. Dunlap
Thoburn T. Dunlap
Reg. No. 31,246

Noveon IP Holdings Corp.
9911 Brecksville Road
Cleveland, Ohio 44141-3247
(216) 447-5918
Date: September 13, 2004
200CT015EEExtTime.doc

Adjustment date: 10/25/2004 SDIRETA1
09/15/2004 FFANAIAR 00000018 501501 10782363
01 FC:1252 420.00 CR

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Customer No. 37535

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Application of: Carole A. Lepileur et al. Docket No.: 200CT015E
Serial No.: 10/782,363 Art Unit: 1624
Filed: February 19, 2004
For: Toughened Vinyl Ester Resins

**Mail Stop Petition
Commissioner for Patents
P. O. Box 1450
Alexandria, VA 22313-1450**

"Express Mail" Label No. EED015650152715

Date of Deposit: September 15, 2004

I hereby certify that this correspondence (including any papers referred to herein) is being deposited with the United States Postal Service "Express Mail Post Office Delivery" Service under 37 CFR §1.10 on the date indicated above in an envelope addressed to: MAIL STOP PETITION, COMMISSIONER FOR PATENTS, P.O. BOX 1450, ALEXANDRIA, VA 22313-1450.

Printed Name of Person Mailing Correspondence: [Signature]

Signature of Person Mailing Correspondence: [Signature]

PETITION UNDER 37 C.F.R. § 1.136 REQUESTING FEE REFUND

Sir:

RE:

Applicant respectfully petitions the Director to authorize a refund of the petition fee paid for a two-month extension of time under 37 C.F.R. § 1.136(a) in the matter of the concurrent filing of a response to the Notice to File Missing Parts of Non-Provisional Application and credit the amount of \$420 to Applicant's Deposit Account No. 50-1501.

By written or electronic means

In response to a Notice to File Missing Parts of Non-Provisional Application
Applicants are concurrently submitting under separate cover the following items to Mail:

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Petition Under 37 C.F.R. 1.181

U.S. Serial No. 10/782,363

September 8, 2004

Page 2

Stop Missing Parts, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450:

- 1) A Response to the Notice to File Missing Parts including duly executed Declaration and Power of Attorney signed by all inventors in the captioned application;
- 2) A copy of the Notice to File Missing Parts (originally mailed on May 13, 2004);
- 3) Authorization to charge Applicant's Deposit Account in the amount of \$130.00 for the late declaration surcharge.
- 4) A Petition for a Two Month Extension of Time under 37 C.F.R. § 1.136(a) up to and including September 13, 2004.
- 5) Authorization to charge Applicant's Deposit Account in the amount of \$420.00 for the two month petition fee.

Since the filing of the instant petition does not stay any period for reply that is running against this application, Applicant is filing the above identified papers and fee charge authorization.

Applicant is petitioning for the relief because the undersigned practitioner never received the original Notice to File Missing Parts of Non-Provisional Application that was mailed on May 13, 2004 by the Office. As verified in the accompanying Declaration of Catherine A. Bartel, a thorough search of the file, work area and mail room indicates that the Notice was never received at the correspondence address of record. A copy of the docket record where the non-received original Notice would have been entered is attached as Exhibit 1. It should be noted, however, that the attached docket record was generated on September 7, 2004 and reflects the docketing of the duplicate Notice that was received and docketed on August 27, 2004 (Exhibit 2) as indicated by the docketing date stamp thereon. The original Notice mailing date of May 13, 2004 was docketed to reflect the actual pending deadline for response. The docket printout sheet is not reflective of the record as it existed before the duplicate Notice was docketed. As set forth in the Declaration of Catherine A. Bartel, the docket as it existed previous to August

Petition Under 37 C.F.R. 1.181
U.S. Serial No. 10/782,363
September 8, 2004
Page 3

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27, 2004 had no entries for the Notice to File Missing Parts and did not contain any information relating thereto.

Background

The captioned non-provisional application was filed without an executed inventor Declaration on February 19, 2004. On February 24, 2004, a fully executed Declaration and Power of Attorney (Exhibit 3) from the named inventors was obtained and placed in the file jacket of the application to await the anticipated Notice to File Missing Parts. On August 23, 2004, the P.A.I.R. system was accessed by the Applicant to determine the status of the Notice. It was discovered that the U.S.P.T.O. mailed the Notice on May 13, 2004. Since the Applicant did not receive the original Notice, a request for a duplicate Notice was placed with the U.S.P.T.O. on August 23, 2004. The duplicate Notice was received at the Applicant's correspondence address and docketed on August 27, 2004. Since the two month date within which to respond to the Notice to File Missing Parts expired on July 13, 2004, Applicant could not file a timely response without petitioning and paying for a two month extension.

Conclusion

It is respectfully submitted that a showing has been made to establish that the Notice to File Missing Parts of Non-Provisional Application that was originally mailed on May 13, 2004 was not received at the Applicant's correspondence address. Consequently, the practitioner in charge of the mentioned application could not file a timely response until the non-receipt of the Notice was discovered. Since the discovery was made subsequent to the two month deadline for filing a response, Applicant was forced to petition and pay the required fee for a two month extension of time in order to file a timely response. Accordingly, the Director is requested to authorize a refund of the two month extension fee to Applicant's Deposit Account No. 50-1501.

Petition Under 37 C.F.R. 1.481
U.S. Serial No. 10/782,363
September 8, 2004
Page 4

If a petition fee is necessary, the Director is authorized to charge Deposit Account
No. 50-1501.

Respectfully submitted,

Thomas T. Dunlap
Thomas T. Dunlap
Reg. No. 31,246

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Noveon IP Holdings Corp.
9911 Brecksville Road
Cleveland, Ohio 44141-3247

200CT015E US Petition

BEST AVAILABLE COPY**EXHIBIT 1****Actions Due**

07-Sep-04

Case Number: 200CT015E

SubCase:

Country: US United States of America

Case Type: CIP

Status : Filed

Action Type: US-Missing Parts

Base Date: 13-May-2004

Response sent date:

Action(s) Due	Date Due	Indicator	Taken
Response Due	19-Jun-2004	Due Date	
1st Extension	13-Aug-2004	Reminder	
2nd Extension	14-Oct-2004	Reminder	
3rd Extension	13-Dec-2004	Reminder	
4th Extension	13-Nov-2004	Reminder	
Final Deadline	13-Oct-2004	Final	

User ID: cab

Date Created: 07-Sep-2004

Last Update: 07-Sep-2004



Customer No. 37535

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Application of:

Carole A. Lepilleur et al.

Serial No.:

10/782,363

February 13, 2004

Toughened Vinyl Ester Resins

For:

Mail Petition
Commissioner for Patents
P. O. Box 1450
Alexandria, VA 22313-1450

"Express Mail" Label No.: ED015650152US

Date of Deposit: September 14, 2004

I hereby certify that this correspondence, including any paper or fee referred to herein) is being deposited with the United States Postal Service "Express Mail" service on the date indicated above in an envelope addressed to: MAIL SYSTEMS SECTION, COMMISSIONER FOR PATENTS, P.O. BOX 1450, ALEXANDRIA, VA 22313-1450.

Printed Name of Person Mailing Correspondence: Thoburn T. Dunn
Mailing Correspondence: Thoburn T. Dunn

7.

8.

9.

To:
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Sir:

I, Catherine A. Bartel, do hereby say as follows:

10.

THAT
caption
Accord
month
petition
§ 1.136(a)

1. THAT I have been employed by Noveon, Inc. (formerly known as the Performance Materials Division of The B.F. Goodrich Company) for approximately eight and one half years holding various job titles in the Patent Law Department located at 9911 Brecksville Road, Cleveland, Ohio 44141-3289 (the correspondence address in the captioned application).

2. THAT from February, 2002 to the present my job title is Trademark and Patent Administrator and part of my duties and job responsibilities include all docketing related to patent matters such as receiving and opening all incoming correspondence from the United States Patent and Trademark Office (U.S.P.T.O.), placing said correspondence in the proper application files, computer docketing all Office Action due dates, distributing files with Office Actions to attorneys and agents, and providing docket information to patent attorneys and agents.

3. THAT during this period I was also responsible for the receipt, docketing, and distribution of all United States Patent and Trademark Office correspondence relating

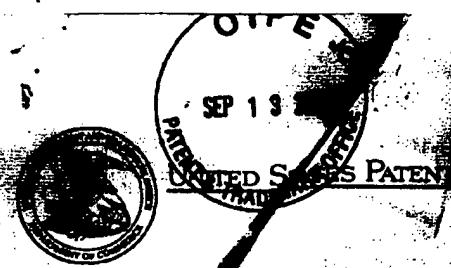
PATENT

DOCKET

Docket No. 200CT015E

Art Unit: 1624

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U.S. GOVERNMENT PRINTING OFFICE: 2004 50-1307-07
UNITED STATES PATENT AND TRADEMARK OFFICE
COMMISSIONER FOR PATENTS
2004 EDITION

APPLICATION NUMBER	FILED DATE	ATTORNEY DOCKET NUMBER
10/781,663	02/19/2004	Carron A. Lopilia 200CT015E

37535
NOVEON IP HOLDINGS CORP.
9911 BRECKSVILLE ROAD
CLEVELAND, OH 44141-3247

CONFIRMATION NO. 5628
FORMALITIES LETTER

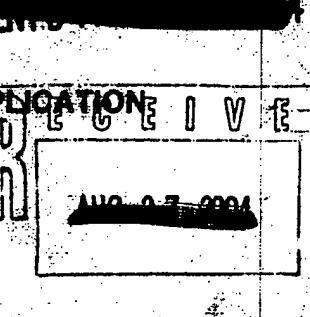
OC00000012656279

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NOTICE TO FILE MISSING PARTS OF A PROVISIONAL APPLICATION

FILLED UNDER 37 CFR 1.53(b)

Filing Date Standard



Items Required To Avoid Abandonment:

An application number and filing date have been recorded to this application. The item(s) indicated below, however, are missing. Applicant is given **THREE MONTHS** from the date of this notice within which to file all required items and pay any fees required below to avoid abandonment. Extensions of time may be obtained by filing a petition accompanied by the extension fee under the provisions of 37 CFR 1.136(a).

- The oath or declaration is unsigned.
- To avoid abandonment, a late filing fee or oath or declaration surcharge as set forth in 37 CFR 1.16(e) of \$130 for a non-small entity, must be submitted with the missing items identified in this letter.

SUMMARY OF FEES DUE:

Total additional fee(s) required for this application is \$130 for a Large Entity

- \$130 Late oath or declaration Surcharge

Replies should be mailed to: Mail Stop Missing Parts
Commissioner for Patents
P.O. Box 1450
Alexandria VA 22313-1450

A copy of this notice MUST be returned with the reply.

Customer Service Center
Initial Patent Examination Division (703) 305-1200

PART I - ATTORNEY/APPLICANT COPY

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DECLARATION AND POWER OF ATTORNEY

As a below named inventor, I hereby declare that my residence, post office address and citizenship are as stated below next to my name, and I verify believe I am the original first and sole inventor (if only one name is listed below) or an original, first and joint inventor (if plural names are listed below) of the subject matter which is claimed for which a patent is sought on the invention claimed.

TOUGHENED VINYL ESTER RESINS

the application of which

- is attached hereto.
- was filed on February 15, 2002 as Application Serial No. 10/219,403 and was amended on _____ (if applicable).

I hereby state that I have reviewed and understood the contents of the attached or the above identified application including the claims, as amended by any amendment referred to above. I acknowledge the duty to disclose information which is material to the examination of this application in accordance with Title 37, Code of Federal Regulations, Section 1.56(a).

I hereby claim the benefit under Title 35, United States Code, Sections 365, 120 and/or 119 of all United States, PCT international and/or foreign application(s) listed below and, so far as the subject matter of each of the claims of this application is not disclosed in such prior application(s), in the manner provided by the first paragraph of Title 35, United States Code, Section 112, I acknowledge the duty to disclose material information as defined in Title 37, Code of Federal Regulations, Section 1.56(a). The earliest effective filing date of the prior application and the national or PCT international filing date of the application(s) listed below also identified below any foreign application for patent or inventor's certificate having a filing date before that of the application on which priority is claimed:

Application Serial No.	Filing Date	Country	Status
10/219,403	August 15, 2002	United States	Pending

I hereby appoint as my attorneys and/or agents (1) Lee A. Powers, Reg. No. 28,108; Samuel B. Laferty, Reg. No. 31,537; and Thoburn T. Dunlap, Reg. No. 31,544, with full power of substitution and revocation, to prosecute this application and to transact all business in the Patent and Trademark Office connected therewith. Address all telephone calls to Thoburn T. Dunlap at telephone number (216) 477-5918. Please mail all correspondence to: Noveon IP Holdings Corp., 9911 Brecksville Road, Cleveland, Ohio 44141-3247.

I declare further that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true, and further that these statements were made with knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issuing thereon.

Declaration and Power of Attorney

200CT015E

Page 2

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Inventor's Signature

Date

2/24/04

Citizenship: U.S.A.

State/Foreign Country: Ohio

Inventor's Typed Name:

Carole A. Lepileur

Residence (City):

Akron

Post Office Address:

560 Lake of the Woods Drive, Akron, Ohio 44333

Inventor's Signature

Date

2/24/04

Citizenship: U.S.A.

State/Foreign Country: Ohio

Inventor's Typed Name:

David R. Egger

Residence (City):

Stow

Post Office Address:

4451 Leewood Road, Stow, Ohio 44224

Inventor's Signature

Date

2/24/04

Citizenship: U.S.A.

State/Foreign Country: Ohio

Inventor's Typed Name:

Carl D. Weber

Residence (City):

Copley

Post Office Address:

1441 Orchardview Drive, Copley, Ohio 44321